

**REGULAR MEETING  
of the  
CITY OF RIALTO  
CITY COUNCIL  
City of Rialto, acting as Successor Agency to the  
Redevelopment Agency  
RIALTO HOUSING AUTHORITY**

**MINUTES  
March 24, 2015**

A regular meeting of the City Council of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, March 24, 2015.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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**CALL TO ORDER**

Mayor Robertson called the meeting to order at 5:00 p.m.

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The roll was called and the following were present: Mayor Deborah Robertson, Mayor Pro Tem Palmer, Council Members Joe Baca Jr., Ed Scott and Shawn O'Connell. Also present were City Administrator Michael Story, City Attorney Fred Galante and City Clerk Barbara McGee.

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**CLOSED SESSION**

- 1 Conference with Legal Counsel - Anticipated Litigation: Significant exposure to litigation pursuant to paragraph (2) of Subdivision (d) of Government Code Section 54956.9. Number of cases: One case. Claimant: Golden Phoenix Construction Co., dba Golden Phoenix Electric.

## **CLOSED SESSION**

- 2 Conference with Legal Counsel - Existing Litigation: The City Council will discuss the following pending litigation (s) pursuant to Government Code Section 54956.9(d)(1):

- (a) City of Colton v. American Promotional Events, Inc, et al  
CD Cal Case No. ED CV 09-01864 PSG(SSx) and consolidated cases
- (b) Contreras v. City of Rialto  
SB Superior Court Case No. CIVDS1306523
- (c) Maria Gallardo v. City of Rialto and Juan Carlos Virgen; Sedgwick Claims Management Services, Inc. for Kaiser Foundation Health Plan as Real Party in Interest v. City of Rialto and Juan Carlos Virgen  
SB Superior Court Case No. CIVDS1402626 (Consolidated with Lead Case CIVDS1401412)

- 3 Conference with Real Property Negotiator. The City Council will confer with its real property negotiator concerning the following properties pursuant to Government Code Section 54956.8:

Property: APN# 0132-012-07

1605 South Riverside Avenue

City Negotiator: Robb R. Steel-Asst. CA/Development Svs. Dir.

Kim Bibolet, EPIC Land Solutions, Inc.

Negotiating Parties: Opine Rialto LLC

Under Negotiation: Price and terms-Acquisition of ROW

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to go into Closed Session at 5:03 p.m. and returned at 5:46 p.m.

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## **CALL TO ORDER**

Mayor Robertson called the meeting to order at 6:03 p.m.

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The roll was called and the following were present: Mayor Robertson, Mayor Pro Tem Palmer, Council Members Ed Scott, Joe Baca Jr. and Shawn O'Connell. Also present were City Administrator Michael Story, City Clerk Barbara McGee and City Attorney Fred Galante.

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## **Pledge of Allegiance and Invocation**

Council Member Scott led the pledge of allegiance and Pastor Rich Whited – Calvary Chapel gave the Invocation.

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**City Attorney's Report on Closed Session**

City Attorney Galante stated that City Council met in Closed Session and discussed all the items listed under Closed Session on the Agenda.

1. Conference with legal counsel. Anticipated litigation. Golden Phoenix Construction Company. City Council provided direction and no reportable action was taken.
- 2a. City Colton v. American Promotional Events Inc. Motion by Council Member Scott, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to direct its prior approval of the cap of legal fees to Paul Hastings of \$82,500, amended to \$200,000 to secure approval of the four-party implementation agreement and thereafter up to \$12,000 on any given month for any required monitoring.
- 2b. Contreras v. City of Rialto, existing litigation. City Council provided direction. No reportable action was taken.
- 2c. Gallardo v. City of Rialto and consolidated cases. Direction was provided. No reportable action was taken.
3. City Council met with its real property negotiator to consider the property at 1605 S. Riverside with negotiating party Kim Bibolet, EPIC land solutions and Opine LLC.

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**PRESENTATIONS**  
**PROCLAMATIONS**

Mayor Robertson presented a Proclamation for DMV/Donate Life California Month to Lena Russell.

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Mayor Robertson presented a Certificate of Recognition to Don Griggs, Rialto Businessman for his community work.

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Council Member Palmer left the dais at 6:17 p.m. and returned at 6:20 p.m.

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Mayor Pro Tem Baca Jr. presented a Certificate of Recognition to Eisenhower students who did an Airport Perimeter clean-up for school credit.

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Mayor Pro Tem Baca Jr. left the dais at 6:29p.m. and returned at 6:32 p.m.

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Presentation-People to People-Nine Day Tour to Cuba's Colonial Cities and Havana and Sister Cities Information-City Clerk Barbara McGee.

Gwiin Correa, Memorable Moments Travel gave a powerpoint presentation.

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**PRESENTATIONS**  
**PROCLAMATIONS**

Council Member O'Connell asked if anyone knew about a sister city? There were articles in the paper about a sister city. He has received calls asking why are they going to Cuba and who is paying for it.

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City Clerk Barbara McGee stated that it was never presented as a sister city. The presentation was information on a trip for the public. Sister Cities international reached out and provided information on how to form a sister city.

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Council Member O'Connell stated apparently this is not sister city related and no money coming from the City for this trip, it's all private. They are not going out there and representing the city in any manner.

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Ms. Correa stated that they have people from all over going on this trip. They have a bus for 24 people and she took the opportunity to present it to the Human Relations Commission to get the information out. She is speaking everywhere. Everybody is paying on their own.

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Council Member O'Connell stated that one of the newspapers somebody asked why is Rialto officials interested in a sister city considering Rialto doesn't have a large Cuban population.

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Mayor Robertson stated that the trip is not part of a sister city program. The sister cities international is part of the League of California Cities and National League of Cities. They have been asked and in the past they have discussed to explore various cities to establish an international sister city relationship. Speaking with a former resident the city had at one time had explored a sister city relationship with a city in Mexico. The ability for them to give some thought to looking at international sister cities should be a path they should look at because they are a diverse community. There is a small Cuban population here in Rialto. Representatives from South Korea have visited Rialto, China and other Asian communities. This is not part of an International Sister City program but it is an opportunity for people in the community to be a part of a people-to-people program.

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City Clerk McGee stated that Rialto had a sister city relationship with Penaflo, Chile in 1969 and in 1977 Rialto looked into the concept of a sister city with Koror, Palau.

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**PRESENTATIONS**  
**PROCLAMATIONS**

Council Member Scott stated that he also recalled a relationship with a city in Mexico in which several local organizations would take good and services there. In regards to the newspaper article he was contacted by one newspaper, the Press Enterprise in which she asked about the concept of a sister city and he wasn't aware of. He is not opposed to sister cities. She asked about the trip. He is not opposed to anybody who wants to pay to go on the trip. He does recall her telling him that she got the information on the sister city from Council Member O'Connell and she wanted to know if he knew anything about it. He is not opposed to sister cities he is just not sure Cuba would be the proper sister city. He would need more information on it.

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Council Member O'Connell stated that he would like to know the name of the reporter. The article stated they spoke to Council Member Scott, Mayor Pro Tem Baca Jr. and someone else. The only person he spoke to was the Sun Newspaper and this was after the article came out. He is not sure what they heard but he is glad to publicly discuss with the reporter. The concern he had, he is not opposed to a sister city, was are they going on a trip and then turn around and make it into a sister city. Mexico seems more than legitimate but Cuba? Are they going on a trip and then turn around and make it into a sister city? He knows that South Korea came by and one of the concerns they had back then was no one on City Council was aware they came by except the Mayor. Then all of sudden they have an idea for a sister city. He represents the citizens in the City and they ask him to represent them. They ask him to make sure they are doing what is right. There are repeat times that there are things that are occurring they are not informed of. For example, Jazz Festival, it's in the newspaper. This trip was discussed extensively in the newspaper as a sister city. He has no idea what is going on and as an elected official and other issues he brought up with the City Administrator. There is an expectation as a City Council that they are informed when things like this happen. He would ask his colleagues, if possible, not making statements that represent him as a Council Member. He gets calls, saying why are they going to Cuba, why are they paying for it. Then he is playing catch up. He knows nothing about Cuba and he has to read about it in the newspaper. He asked Council Member Scott if he would like to talk about the reporter later then he would be glad to talk to that reporter. The only person he spoke to was Leslie from the Sun Newspaper.

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Council Member Scott stated he doesn't know which reporter it was but he is happy to talk to him anytime.

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**PRESENTATIONS**  
**PROCLAMATIONS**

Council Member Palmer stated that he is all for sister cities. He remembers the one from 1969 and remembers the one in the 70's. The problem he has they establish sister cities and then what? You don't acknowledge them again after years go by. The purpose is an ongoing relationship with a City somewhere else to exchange ideas, political views. He read the same article about Cuba and he said why would he want to go to a communist country right now, who's human rights violations are still ongoing and numerous. They have all of South America, Rialto is 67% Hispanic. Countries they could have meaningful relationships with. For Rialto to just establish a sister city years ago and not do anything to maintain the relationship. It's a little disingenuous on their behalf. If they make that commitment they should stick with it.

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Mayor Robertson stated that this trip to Cuba is on any individual's own personal dollars and it is not the beginning of establishing any sister city relationship. For all of her colleagues, the process that she would assume so that it will be more forward than what was established in the past would be that one of their commissions, Human Relations or whichever one that City Council feels would be a body that starts as a fact finding and that they would explore just what you said. If they are going to establish a relationship they should really establish one and then to find out they already had some. Apparently they have not bothered to pay the appropriate attention to them. The International Sister City process is an established process and there are some guidelines as to why they would establish a sister city relationship. She thanked Mrs. Correa for the presentation. She knows there are citizens who have asked for information. One happens to be a police volunteer who travelled with them when they went to China.

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Gwiin Correa stated that the sister city thing is interesting, however she can speak for herself as a travel agent, she would never get involved in anything like that because she doesn't know anything about it. Also, Globus is a supplier, they sell the travel and facilitate the process.

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Police Chief Farrar introduced new 2 new police officers Jarrod Zirkle and Josiah Lutz.

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**ORAL COMMUNICATIONS**

David Phillips, 659 N. Teakwood Ave., expressed his concern about incomplete street repairs. He congratulated the Police Chief on 2 fine candidates. He stated that they would benefit from a Latino sister city.

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## **CONSENT CALENDAR**

### **A. WAIVE FULL READING OF ORDINANCES**

1. Waive reading in full, all ordinances considered at this meeting.

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### **B. APPROVAL OF WARRANT RESOLUTIONS**

- B.1** Resolution No. 34 (03/13/15)
- B.2** Resolution No. 35 (03/20/15)
- B.3** Resolution No. 35A(03/20/15)

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### **C. APPROVAL OF MINUTES**

- C.1** Regular City Council Meeting - March 10, 2015

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### **D. SET PUBLIC HEARINGS**

- D.1** Request City Council to set a Public Hearing for **April 28, 2015**, to Consider Adoption of a Resolution Ordering the Abatement of Weeds on Various Properties within the City limits, and to hear any Objections to Imposing the Abatement Cost Therefore as a Lien Against Parcels of Property Set Forth in Exhibit A.
- D.2** Request City Council to Adopt **Resolution No. 6709** Rescinding and Replacing Resolution No. **6697** Declaring the Intention to Annex Properties, the Rialto Landscaping and Lighting District No. 2 and Conduct a Property Owner Protest Ballot Proceeding On The Matter of the New Assessments Related Thereto Commencing with Fiscal Year 2015/2016; and to Request City Council to Set a Public Hearing for **May 12, 2015** to Conduct a Property Owner Protest Ballot Proceeding.

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### **E. MISCELLANEOUS**

- E.1** Request City Council to Approve a purchase order with G/M Business Interiors in the amount of \$23,213.95 for the purchase of workstations and office furniture for the Rialto Police Department's Detectives Unit.
- E.2** Request City Council to Approve a One Year Narcotics Enforcement Agreement Between Rialto Police Department and California Department of Corrections/Division of Adult Parole Operations Which Assigns a Parole Agent to the Rialto Police Department

## **CONSENT CALENDAR**

- E.3 Request City Council to Approve payment to San Bernardino County Registrar of Voters in the amount of \$38,066 for election services in the 2014 General Municipal Election.
- E.4 Request City Council to Approve a Travel and Training Request for City Clerk Barbara A. McGee to attend the 2015 Annual International Institute of Municipal Clerks (IIMC) Conference, May 17- May 20.
- E.5 Request City Council, Acting for the Successor Agency, to Adopt Budget Resolution No. 6710 Correcting the Account Number for the Fund Allocation from the 2005 Series A Tax Allocation Bond Issue for the Riverside/San Bernardino Street Improvement Project.
- E.6 Request City Council to Receive and File the Statement of Income and Expenses related to Airport Escrow Account for February 2015.
- E.7 Request City Council to Adopt Resolution No.6711 Authorizing the Destruction of Certain Municipal Records of the Police Department.
- E.8 Request City Council to Approve a Travel and Training Request for Planning Commissioners Artist Gilbert and Dale Estvander to attend the ICSC RECon Convention, May 17 - 20, 2015, in Las Vegas.
- E.9 Request City Council Authorization to Issue Notice of Intent to Exercise Lease Extension for property located at 521 W. Rialto Avenue Unit #B, Rialto, California.
- E.10 Request the City Council to Approve a contract with LDM and Associates (LDM) for temporary staffing services to fill the Interim Finance Manager position for an amount not-to-exceed \$18,000.
- E.11 Request the City Council to Approve the Purchase Order and Service Contract with Kronos for Payroll Timekeeping Equipment and Software in the amount of \$26,721.05.
- E.12 Request City Council to Grant a Second Extension to the Current Franchise Agreements for Official Police Towing Services with Pepe's Tow Service and J&K Auto Body and Towing on a "Month to Month" Basis for a Period of up to Six Months.

## **CONSENT CALENDAR**

E.13 Request Rialto Utility Authority to Approve the Fifth Extension of Termination Date for the Site Use Agreement by and between the Rialto Utility Authority and Rialto Bioenergy Facility LLC.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member O'Connell and carried by unanimous vote to approve the Consent Calendar. Mayor Robertson abstained from voting on Item C.1.

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### **TAB 1 – Fireworks Discharge Restrictions**

Fire Chief Fratus presented the staff report regarding a proposed Ordinance relating to Fireworks Discharge Restrictions imposing strict liability on property owners or persons in control of property.

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Mayor Robertson declared the public hearing open.

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### **Oral Communications**

David Phillips, 659 N. Teakwood Ave., expressed his concerns regarding fireworks.

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Mayor Pro Tem Baca Jr. stated that he appreciates both Chief bringing this item because it's important that it's addressed. It's a concern for the entire community especially from the safety point of view. They don't want to see anyone get hurt from illegal fireworks. He likes the plan, but have they reviewed data in the last 2-3 years. Where have most of the calls for service been in regards to illegal fireworks?

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Police Chief Farrar stated that they took a cursory look at it last year. The calls come from all over. There is no centralized location that they can pin. The problem is that it's so all over the map that is difficult to get control over. He thinks that this is one of those things they are just going to have to continue to educate the community to ramp up enforcement. This ordinance is a good thing and it might help those homeowners that allow people to utilize illegal fireworks to make them think twice. It's going to be a long process and it's something they are not going to be able to solve this year.

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Mayor Pro Tem Baca Jr. stated they caught a bunch of people coming across the state border last year. Is there any type of other operations they plan on doing? Are they going to do anything more proactive?

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**TAB 1 – Fireworks Discharge Restrictions**

Police Chief Farrar stated that he knows that Fire Chief Fratus does go out and do some interjection. They were very successful last year. There were a couple of projects he can't really speak to publically that they do behind the scenes to deal with some illegal fireworks and they were very successful in seizing 200-300 pounds of fireworks last year. There are going to be a lot of different tactics they will use.

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Mayor Pro Tem Baca Jr. stated that he understands and hopefully this makes a difference so they can address it. In regards to an event, they have talked about it generally. Years ago in the 70's Frisbie Park would host a big Fireworks event. If they can continue looking at hosting their own event and finding a site where they can congregate and deter people from illegal fireworks. Some people have proposed banning them and many others have opposed it. He has been one to oppose it because of the non-profits that benefit from it. He will continue to support this.

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Council Member Palmer stated that he has family that lives in Redlands too and in Beaumont, while those cities ban fireworks and there is just as many illegal fireworks going on over there as in Rialto. He is assuming during Fourth of July every city has the same problem whether they ban the safe and sane fireworks or you don't ban them. One of the fads right now is they have mobile units. They get vans and go to a park and light them all off and then drive to another location. This is another thing they have to contend with. He is not sure how the police department and the fire department deals with mobile units. It's something that every city deals with and he wishes they had people who obey the law and use the safe and sane. They talked about having a fireworks show in Rialto to help alleviate the problem.

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Fire Chief Fratus stated regarding people going around in vans and lighting them off. The problem they have been made aware of by those they have the safe and sane fireworks booth. They launched several complaints of people who will drive up and sell the illegal stuff right next to the safe and sane booths. This is something they need to work with as well. The best thing they can do is let them know and they will get someone out there immediately. So the message to the community would be, if they see something like that to let them know. They will advertise the fireworks hotline and they can call the police department directly. That is how they start to curtail these activities is when everybody helps them out.

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**TAB 1 – Fireworks Discharge Restrictions**

Council Member Scott stated a few years back they use to have rolling stock in the city such as fire trucks and paramedics. He always thought it was a big deterrent. Even of the safe and sane people. Is there any plan to use rolling stock in the City?

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Fire Chief Fratus stated that they typically have done is get an additional unit on the street. As the call volume has grown over the years, there is a surge period that starts just before sundown and goes until about 2:00 am. They are rolling on the street whether they like it or not. They field so many calls during that time that they are continually putting units out on the street. They are correct, just the visible presence is somewhat of a deterrent. He was personally out there last year driving around. Maybe his car is not intimidating enough, he didn't deter anybody, they were lighting them off right in front of him.

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Council Member Scott stated that he agrees with Council Member Palmer and this is not just a problem of Rialto's. It's a problem of the entire County. He doesn't know what the solution but, he know that it's extremely worse than it was 20 years ago. His family leaves town on Fourth of July because of it. They go somewhere where fireworks are not allowed period which is in Kern County. It also has a major impact on animals. Two years ago his son Eddie lost his dog because the neighbors were firing those things off and the dog jumped off a Jacuzzi and broke its back. The second worse thing he has had to do in his life was stand alongside his son and watch that dog be put to sleep. It's a traumatic thing for pets and certain humans. A lot of people clearly don't like it. He appreciates what police and fire doing what they can do to try to curtail it. He thinks it's sad that the community and the neighbors are not more cognizant of the damage they are doing to the community. Frankly, the danger that it poses because there are a lot of buildings in the downtown area that are really old that could easily catch fire.

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Council Member O'Connell stated that he did hear statements that it's just not enough to hunker down or not much they can do about it. Maybe because it's his police background of his, this is a plan they developed since last year and he thanked the Chiefs for a thorough effective plan. This plan is not going to be solved this year. They started last year, they had citizens coming up saying their dog are hiding under the beds. Some citizens said the fireworks were being dumped in their yards and roofs. Before they issued tickets, last year they started making arrests. They filed against them and collected money. Those people this year are not going to be firing off fireworks because of the additional charges that could be filed against them. They learned that they didn't have enough people on the streets. He knows the City Administrator was calling from his house and 3-4 people were firing off fireworks knowing he's the City Administrator.

**TAB 1 – Fireworks Discharge Restrictions**

Council Member O'Connell stated that this is how they came up with a social host ordinance, if they are allowing it to go on in their house then they will be responsible. They will go there now with a set plan to roll through the streets and pickup people who are firing off. Last time they would contact someone, collect evidence and then report that evidence back and its taking time off the streets. So this time they will roll together. Somebody will collect that evidence so they can go to the next spot. They will educate prior too. They are going to enforce. They are also going to provide entertainment doing it. In the past they would have an event down south where they would have limited volunteer donated fireworks. There has been a discussion about purchasing aerial fireworks so citizens can come to an event that is safe fun and sane. This will not be solved this year. This is a program they are moving forward with. The goal is that if he gets arrested he is going to tell 10 people not to do it. It's not worth the time or money. That is eventually going to spread. He hopes it will be better this year and the goal is that it will be. They will come back and hopefully say instead of 30 people its 100 people arrested. They have a plan and they are working on it just don't fret. If they have any concerns they can always call.

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Mayor Robertson stated that when she first came to Rialto in 1988 she has seen the fireworks activity increase every year. When she came on Council in 2000 there was actually a split, because she was an advocate for eliminating everything about the fireworks. Even recognizing that it provided some revenue to their non-profit organizations. She began with the exploration along with former council member Winnie Hanson of looking at what they can do to come up with another revenue stream for the non-profits. Then they explored a restriction so that it doesn't occur at a certain point in the city. However that would only mean that the activity would be further concentrated in the central area. In the meantime they increased the lottery and added more booths. It's been an ebb and flow for the non-profits. Some make money that is sufficient and some spend a lot securing a site. Recreation has created an activity down at Rialto Park so they can try and encourage residents to participate in that. She thinks that it would be great if they could come up with one central activity that everybody could enjoy and people could come out at support. With this plan she is hopeful and think this is being proactive in trying to figure out how to take their resources and more strategically utilize them and dispatch them the day of the event and leading up to it. In addition to the presentation, what can the residents do. She would like to explore the possibility with the neighborhood watch groups and to put up signs in advance saying if they fire them off, they will be reported. She doesn't know what else they can do. If they start in that approach taking an effort to put up temporary notices in areas where they have neighborhood watch then it would be one additional thing. She is still concerned with having fireworks in the city because of what she has seen and how it affects people.

**TAB 1 – Fireworks Discharge Restrictions**

Mayor Robertson stated that she is willing to see if they can't utilize their resources or even find out if there is time when they need to expand beyond their resources to address this thing before they would say let's throw the baby out with the bathwater. She likes knowing they at least have something a little more strategic and focused.

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City Attorney Galante read the title of the Ordinance:

**ORDINANCE NO. 1559**

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING CHAPTER 5.20 (FIREWORKS) RELATING TO FIREWORKS DISCHARGE RESTRICITIONS IMPOSING STRICT LIABILITY ON PROPERTY OWNERS OR PERSONS IN CONTROL OF PROPERTY"

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Motion by Mayor Pro Tem Baca Jr., second by Council Member O'Connell and carried by unanimous vote to introduce and waive first reading of Ordinance No. 1559.

The vote was: AYES: Mayor Robertson, Mayor Pro Tem Baca Jr., Council Members Palmer, Scott and O'Connell. NOES: none. ABSTAIN: none. ABSENT: none.

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**TAB 2 – One Time Compensation for All Full-Time Employees**

George Harris, Administrative and Community Services Director presented the staff report regarding the formula and distribution of a total of \$500,000 in One-time Compensation to all Full-Time employees with City service of one-year or more, excluding the City Administrator and members of the CGMA.

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Council Member Palmer stated that the employees have given up the past 6 years he has been on City Council. Every year they give up. He is happy to see that with a little bit of extra money that they are getting something back in a lump sum payment. It's substantial enough to make a difference.

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Council Member Scott stated that he sees that CGMA was excluded from this. He would like to know how that happened. Was that there agreement? He knows that the City Administrator did not want to be included. Secondly, the meeting that took place on March 16<sup>th</sup> was that a collective bargaining meeting?

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Mr. Harris stated that it was an informal meeting.

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**TAB 2 – One Time Compensation  
for All Full-Time Employees**

Council Member Scott stated that he was curious and he has heard a number of times up there said that when things happen in the City all Council Members should have knowledge of it. He agrees with that. He sees that only one Council Member was involved in this meeting. Can they tell him that no other Council Members were included in the meeting?

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Mr. Harris stated that Council Member Shawn O'Connell was involved in the meeting and requested to be a part of the meeting. He doesn't believe Council Member O'Connell made any comments during the meeting. He was there to hear concerns raised by the individual representatives.

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Council Member Scott stated that is not his issue, he thinks other Council Members and the Mayor should have the opportunity to attend such a meeting also. He is just pointing out the fact that they keep having discussions about everybody at the dais knowing about what is going on and everything. Yet, this meeting transpired and no one else knew about it. He would like to hear from the City Attorney on the legality of this. He is in total support of it. He wants to make sure that they don't somewhere down the road get accused of giving away public funds. He would like to hear specifically the procedure for being able to get around that.

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Mayor Robertson stated that she did receive a call from a citizen wanting to know if this was a violation of Article 16 in the California Constitution which speaks to the gift of public funds to public servants including political. She did ask the City Attorney that if that is not a line that says with legal review, the City Attorney has reviewed and approved the staff report. It would be beneficial to them to have details that speaks to that in the staff report. That there is no reason they are violating Article 16 of the California Constitution or the procedures. When she read it, it gave her the sense that they already established the side letter language. What she came to find out was that if they proceed and give authorization then there will be a formal preparation of the side letter with the respective bargaining units. Then she too had a concern with the exclusion of the department heads. The City Administrator reports directly to City Council and he is not covered under the CGMA but would not want to in any way de-value the department heads efforts and contributions in the last couple of years. It should be all full time employees of more than one year. Of if the discussion was made with the Bargaining Unit and they have collectively made the decision and took it before their individual bodies.

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**TAB 2 – One Time Compensation  
for All Full-Time Employees**

City Attorney Galante stated that there have been a lot of court cases and Attorney General opinions on the very issue of whether extra compensation to City Employees is a gift of public funds. Essentially, the general rule under the California Constitution is that a City should not pay out any funds unless there is either a legal obligation or some corresponding benefit to the City. He did look up some prior research he had done and the courts defer to cities determinations of what is a public purpose. Before they can establish that a payment is appropriate it has to serve some public purpose. Otherwise it is a gift of public funds. More specifically, cases have actually looked into issues of paying extra compensation. The line is drawn and the problems occur when compensations provided when an employee announces their retirement. The City would not get any corresponding benefits from providing extra compensation after the employee has already decided to leave. Courts have tackled with the question of whether even paying for a retirement party is an issue. They have concluded that to honor the service of an employee is not an issue its just payment after retirement. On another case, the court upheld the appropriation of employee compensation for continued recruitment and retention of qualified employees and improvement of employee morale. Those were justifications that the City provided or providing that extra compensation. He feel comfortable that this doesn't come to the line of paying compensation after somebody is retired whether there is no benefit or "quid pro quo".

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**Oral Communications**

David Phillips, 659 N. Teakwood Ave., advocated for the part time workers of the City and thanked them for all they do.

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Mayor Robertson asked about the seasoned part-time employees. Is there something procedurally that prevents them from being able to compensate some of the part time employees?

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Mr. Harris stated that there has not been conversation about giving part time employees one time compensation. If it's City Council's wish to do so then they will calculate that. They will have to work on the methodology because there are some that work 6 hours a week and some work 30 hours a week. Any amount to part-timers will reduce what is going to full-timers.

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Mayor Robertson stated she is very concerned about the part time employees starting at minimum wage and a lot of times they are the first line of contact representing the City. Some have been with the City for a number of years. So this would concern her in terms of equity. She would hope that they could look at what that number is if they included part timers over a year or more.

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**TAB 2 – One Time Compensation  
for All Full-Time Employees**

Council Member Scott asked if they address his question on CGMA.

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Mayor Robertson stated that the questions was that there needs to be a formal process and they need to decide as policymakers do they exclude any employees.

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Robb Steel, Development Services Director and CGMA President stated no there has not been a formal meeting on this matter. This can be something they can go back and do.

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Mayor Robertson stated that the City Administrator definitely does a lot for them without a doubt. No one has expected that he should be excluded. He decided that he wanted to be excluded. She wants that to be known.

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Council Member O'Connell stated that his Council Member Scott brought up something that needs to be answered. The reason why he was aware of the meeting was they all discussed it at the dais. After leaving he informed City Administrator that he wanted to be involved in any meetings going forward. He is proactively letting him know about the discussion they had. He wants to represent the citizens, he wants to work with the employees. When he mentioned about things that occur that he is not aware of he is talking about stuff in the press such as the jazz festival which they never discussed. He is referring to Cuba which they never discussed. Things are going on where individuals are making decisions on behalf of the City Council. To clarify this is not something that he is getting special treatment for. This is something he is taking the lead on because he wants to represent the citizens. In the future, he can let him know what he is doing but the goal is that they all have the opportunity to do that.

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Council Member Scott stated that he doesn't need Council Member O'Connell to let him know, he would prefer the City Administrator to let him know.

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Mr. Harris stated that if they are going to recommend to bargaining units a straight across the board formula being requested tonight. If they want to caveat that action with including part timers at some extent and then CGMA. They can come back to them with what it would look like for the part timers at a subsequent meeting.

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**TAB 2 – One Time Compensation  
for All Full-Time Employees**

Mayor Robertson stated or they can ask him to table it and come back to City Council with calculations.

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City Attorney Galante stated that he would suggest that as well so they have all the information and so the public knows that the part timers are being considered.

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Mayor Robertson stated also given the things that have been raised it would be good to have the formal discussions with the bargaining units.

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Council Member Palmer stated that when they go back that part timers may be a bit difficult calculating hours. The 6 hour a week employee isn't going to get the same as the 40 hour full time employee.

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Mr. Harris stated that it will be more of a question of how will they differentiate between the 6 hour a week employee and the 30 hour a week employee. Is it going to be based on an average amount of hours spent worked? This is something he and the City Administrator will have to discuss.

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Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to table this item and bring back data that would include the part time employees.

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**TAB 3 – Construction Agreement  
with Lewis-Hillwood Rialto**

Robb Steel, Development Services Director presented the staff report regarding the Construction Agreement by and between the City of Rialto and Lewis-Hillwood Rialto Company, LLC.

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Mayor Robertson left the dais at 7:56 pm

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Motion by Council Member Palmer, second by Council Member O'Connell and carried by a 4-0 vote to Adopt Resolution No. 6712 Rescinding Resolution No. 6694 and Approving a Construction Agreement by and between the City of Rialto and Lewis-Hillwood Rialto Company, LLC. Mayor Robertson was absent.

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**TAB 4 – Construction Contract  
with West-Tech Contracting**

Robb Steel, Development Services Director presented the staff report regarding Construction Contract with West-Tech Contracting, Inc. in the amount of \$894,252.47 for the Rialto Airport Demolition - Phase 2.

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**TAB 4 – Construction Contract  
with West-Tech Contracting**

Mayor Robertson returned to the dais at 8:02 p.m.

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Mayor Robertson stated that they budgeted \$5.1 million and this is funds from the Airport account. The fact that the local bidder was \$45,000 off, will this bid be held tight to ensure that there are no additional change orders?

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Robb Steel, Development Services Director stated with a project like this they won't know until they remove the improvements, particularly with contamination. They estimated the quantities based on the Phase 2 investigation that was done. They are confident that they captured what requirements are going to be done. They have a confirmation consultant that will be there to take tests and if the soils require remediation they will need to be paid for. They will also have Regional Water Quality Control oversight on this project as well. There will be a lot of people making sure they clean up the soil properly. He can't say there won't be additional quantities or something that necessitates a change order.

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Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to Award a Construction Contract with West -Tech Contracting, Inc. in the amount of \$894,252.47 for the Rialto Airport Demolition - Phase 2, City Project No. 130704.

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**TAB 5 – Rubberized Pavement  
Grant**

Robb Steel, Development Services Director presented the staff report regarding Rubberized Pavement Grant.

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Motion by Council Member Palmer, second by Council Member Baca Jr. and carried by unanimous vote to (1) Accept a Rubberized Pavement Grant from the Department of Resources Recycling and Recovery (CalRecycle) in an amount up to \$233,058.00 for resurfacing City roadways, and (2) Adopt Budget Resolution No. 6713.

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**TAB 6 – Construction Contract  
Change Order No. 1 to Match  
Corp.**

Robb Steel, Development Services Director presented the staff report regarding Construction Contract Change Order No. 1 to Match Corp.

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Mayor Robertson asked about Slover from Riverside to Willow?

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**TAB 6 – Construction Contract  
Change Order No. 1 to Matich  
Corp.**

Robb Steel, Development Services Director stated that was on the original award. Back on Schedule A so it's already been covered. The new work is Cedar from Merrill to Rialto, Easton from Willow to Riverside.

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Mayor Robertson stated that she was just concerned with Slover and hopefully the project will include the intersection. Even though she knows they are still looking at the possibility of improving, making changes to the bridge structure over Union Pacific and Riverside. In the meantime the intersection with Riverside and Slover is bad.

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Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to Approve Construction Contract Change Order No.1 to Matich Corporation, a California Corporation, in the amount of \$665,219.56 for the 2013/14 & 2014/15 Annual Street Overlay Project, City Project No. 140803 & 150801.

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**TAB 7 - Affordable Housing  
Project in the Downtown Area**

Council Member Scott stated he has a Conflict of Interest on this item and will need to abstain. His property and business are within 500 feet of this proposed project. Additionally Young Homes is listed as a participant in this and the owner is a close personal friend of his and they have a business relationship.

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Council Member Palmer stated that he has a Conflict of Interest on this item and will need to abstain as well. He has businesses within 500 feet of the proposed project.

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Council Member Scott and Council Member Palmer left the dais at 8:16 pm

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John Dutrey, Project Manager presented the staff report regarding Developing an Affordable Housing Project in the Downtown Area.

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**ORAL COMMUNICATIONS**

David Phillips, 659 N. Teakwood Ave., pleased to see Council Member Scott do right by excusing himself from the item.

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**TAB 7 - Affordable Housing Project  
in the Downtown Area**

Mayor Pro Tem Baca Jr. stated that sometimes people disagree philosophically but he asked Mr. Phillips that if he doesn't like someone personally that he doesn't say it. They can all disagree on policy but they need to stick to the policy here.

There are three groups involved. Young Homes, National CORE and LaBarge Industries. LaBarge Industries has done a good job with Jackson and Willow Ave. They turned that project around and has made a difference in the community. Also, National CORE for the Citrus Grove project north of Eisenhower High School. Young Homes has not done a project in a few years but is respected in the Inland Empire.

Regarding the monies, is it all low-mod affordable money they are giving for the project?

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Mr. Dutrey stated that the Successor Agency currently holds \$5.5 million and in addition \$2 million in Bond funds from the former Redevelopment Agency. Some of that will be utilized to pay off a help loan. They estimated \$5.5 million to do up to 3 projects. The money is all bond fund related.

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Robb Steel, Development Services Director stated that they have Housing Bonds as well as the bonds they are more familiar with. These are restricted for low-mod housing.

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Mayor Pro Tem Baca Jr. asked so everything they are going to do with this is restricted funds. In regards to the proposed sites and he knows they are not going to decide on those tonight but they have Orange, Olive and North and South of the Metrolink Station. His preference, the piece at Riverside and Rialto, he would like to start looking for an anchor tenant (business) who can take the spot to help downtown. He would not like to see a project on this site. But the other proposed sites, there are some opportunities. The one thing he would ask is that it's aesthetically pleasing and the other thing is that it has enough space and parking for residents. If they look at some of their older apartment complexes it becomes an issue with illegal dumping and other things at the older apartments. Hopefully they can avoid that as they look at how they plan and develop this to have a nice clean place. They do need affordable housing. For a young couple to buy a home at this time is difficult. Depending on the type of affordable housing, this is what he envisions. He is in support of awarding it to this group.

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Council Member O'Connell agreed with the Riverside/Rialto reference, maybe with the idea of jump starting that whole area at the center of the City which they will be addressing the roads shortly. They need to bring life back to that center.

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**TAB 7 - Affordable Housing Project  
in the Downtown Area**

Mayor Robertson stated that National CORE has done a fantastic job of gathering and recovering old housing projects that was definitely a drain on public safety services. LaBarge Industries, Park Place has definitely been an asset to the Community and has brought about the quality of life they wanted to see. Regarding Young Homes, she knows the quality of projects they bring in. The assembling of what they have is probably the best in the world of affordable housing. She applauds and commends them for doing what they have done in terms of coming together as a joint venture. With regards to the Riverside/Rialto they all want to see that help jump start the downtown and be a focal point. She wants to see what will be presented and what could be the potential. She applauds the groups for coming together and they have the opportunity of seeing dynamic things in Rialto.

She asked Mr. Dutrey to share the SCAG letter she received with the housing partners.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member O'Connell and carried by a 3-0 vote to Approve Resolution No. 02-15 to Select a Joint Entity of National Community Renaissance, Related California, Young Homes and LaBarge Industries to Develop an Affordable Housing Project in the Downtown Area.

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Council Member Scott and Council Member Palmer returned to the dais at 8:30 p.m.

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**TAB 8 – Construction and Credit  
agreement with CLDFI Linden LLC**

Robb Steel, Development services Director presented the staff report regarding a Construction and Credit Agreement with CLDFI Linden LLC.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote to (1) Adopt Resolution No. 6714 Approving a Construction and Credit Agreement by and between the City of Rialto and CLDFI Linden LLC (Cap-Rock) in the amount of \$509,685 and (2) Adopt Budget Resolution No. 6715.

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**TAB 9 – Investment Swap**

City Treasurer Edward Carrillo presented the staff report regarding investment swap of the investment described as the FFCB 2023, a 10 year bond, in the City of Rialto General Fund Reserve, for a 5 year 9 month corporate bond maturing in 2021 in interest income.

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**TAB 9 – Investment Swap**

Council Member O’Connell stated an amazing job in the investment for the last few years especially with everything that the City has gone through. He appreciates they are shortening the maturity from 10 to 5 while increasing 65% investment income.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to Approve the investment swap of the investment described as the FFCB 2023, a 10 year bond, in the City of Rialto General Fund Reserve, for a 5 year 9 month corporate bond maturing in 2021 for \$1,627,500 in interest income.

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**TAB 10 – Investment in Chevron Corporate Bond**

City Treasurer Edward Carrillo presented the staff report regarding an investment described as the \$5M Chevron Corporate Bond.

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Motion by Council Member Palmer, second by Council Member O’Connell and carried by unanimous to approve the investment described as the \$ 5M Chevron Corporate Bond, in the City of Rialto General Fund, a 5 year 4 month corporate bond maturing 2020 for \$657,312 in interest income.

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**TAB 11 – MS4 NPDES Joint Defense Agreement**

City Attorney Galante presented the staff report regarding the MS4 NPDES Joint Defense Agreement between the City, the County of San Bernardino as Principal Permittee, the fifteen area cities as Co-Permittees and Squire Patton and Boggs as Counsel to the NPDES Program.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to Approve the MS4 NPDES Joint Defense Agreement between the City, the County of San Bernardino as Principal Permittee, the fifteen area cities as Co-Permittees and Squire Patton and Boggs as Counsel to the NPDES Program.

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**TAB 12 – Settlement Agreement with San Bernardino Flood Control District**

City Attorney Galante presented the staff report regarding Settlement Agreement in the matter of San Bernardino Flood Control District vs. State of California Ex Rel Department of Transportation (Caltrans) San Bernardino Association of Governments and San Bernardino County Transportation Authority (SANBAG) and City of Rialto and related cross complaint

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Council Member Palmer stated he is glad this is finally over with, that the attorneys decided to forego the mediations and settle it themselves. The amount they settled for was substantially less than what City Council had approved 4 years ago to settle this matter.

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**TAB 12 – Settlement Agreement  
with San Bernardino Flood  
Control District**

Mayor Robertson agreed, when they did step into to try and start the mediation, they found it wasn't going to anyone's satisfaction. She is glad they finally managed to get this to a point of closure after 7.5 years. A press release will be submitted to the press. She does not want to say this is going to bring about any greater flood protection to the Rialto community. She is still very concerned with a number of other flood protection projects that are under the County's jurisdiction. It's impacting Rialto's ability to move forward and ensure that no one will be in harm's way, as well as the economic impact. They will be able to move beyond this and start to address flood control projects.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote Adopt Resolution No. 6716 Approving the Settlement Agreement in the matter of San Bernardino Flood Control District vs. State of California Ex Rel Department of Transportation (Caltrans) San Bernardino Association of Governments and San Bernardino County Transportation Authority (SANBAG) and City of Rialto and related cross complaint; and Budget Resolution No. 6717 Appropriating \$5,500,000 in funds required to be paid per the Settlement Agreement.

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**REPORTS**

City Council gave their reports.

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**ADJOURNMENT**

Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to adjourn the City Council meeting at 9:18 p.m. in memory of :

**Helen Jones**

WWII Air Force Veteran and Rialto Resident

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